

# EXHIBIT A

**JON PERSINGER  
NATALIE HEATH vs TFS DINING**

September 23, 2021

1-4

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

NATALIE HEATH, ET AL )(   
Plaintiff )(   
VS. )(   
( CASE NO. 1:20-cv-00890-RP  
TFS DINING, LLC, AND RPM )(   
DINING, LLC DBA YELLOW ROSE;)(   
JON PERSINGER, ET AL )(   
Defendant )(

ORAL DEPOSITION OF  
JON PERSINGER  
SEPTEMBER 23, 2021  
(Reported Remotely)

ORAL DEPOSITION OF JON PERSINGER,  
produced as a witness at the instance of the Plaintiff,  
taken in the above styled and numbered cause on  
September 23, 2021, between the hours of 1:31 p.m. and  
2:41 p.m., before AMANDA FULLER, CSR No. 11418, in and  
for the State of Texas, reported by oral shorthand  
method remotely via Zoom, at the residence of the  
witness, located at 3413 Aquamarine Drive, in the city  
of Round Rock, state of Texas, pursuant to the Texas  
Rules of Civil Procedure and any provisions stated on  
the record or attached therein.

APPEARANCES

COUNSEL FOR PLAINTIFF:  
  
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ALSO PRESENT:  
  
JONATHAN JOSEPH (via Zoom)  
  
MICHAEL PERSINGER (via Zoom)

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THE COURT REPORTER: We are going on the  
record on September 23, 2021 at 1:31 p.m.  
JON PERSINGER,  
having been first duly sworn, testified as follows:  
EXAMINATION  
BY MS. MONTGOMERY:  
Q. Sir, will you please state your full name for  
the record?  
A. Jon, J-o-n, Douglas Persinger,  
P-e-r-s-i-n-g-e-r.  
Q. And how are you connected to the club, the  
Yellow Rose?  
A. I own 33.3 percent of the stock.  
Q. What is the business entity that's doing  
business as the Yellow Rose? What's the name of the  
business?  
A. RPM Dining.  
Q. Is that an LLC?  
A. LLC.  
Q. Who else is an owner in RPM Dining, LLC?  
A. Jonathan Joseph owns a third, and WWOW Trust  
owns a third.  
Q. You said WWW like World Wide Web?  
A. WWOW Trust.  
Q. Do you know who the ownership is in the trust?

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<p style="text-align: right;">Page 5</p> <p>1 A. Yeah. I'm not -- I'm not privileged to say who 2 that is, though. That's why it's a trust. I have an 3 NDA. 4 Q. Oh. All right. Well, that may be something we 5 may request then. Is there another person besides John 6 and Joseph that you discuss ownership issues with 7 when -- 8 A. Yes. 9 Q. -- in regards to the Yellow Rose? 10 A. Yes. 11 Q. Who -- 12 A. Michael Persinger. 13 Q. -- is that? 14 A. Michael Persinger. 15 Q. Is Michael Persinger an owner in any way? 16 A. No. 17 Q. Is Michael Persinger related to you? 18 A. Yes. He's my brother. 19 Q. And what is Michael Persinger's role with the 20 Yellow Rose? 21 A. He's a chief consultant. 22 Q. And what does he do as the chief consultant? 23 A. He consults us on accounting matters and on 24 FSLA matters -- or FLSA matters, and he generally writes 25 the procedures and manuals and stuff like that and is in</p>	<p style="text-align: right;">Page 7</p> <p>1 Rose, was there anyone besides Mr. Joseph and the trust 2 that was an owner? 3 A. Yes. At one point we had an owner named David 4 Frank, and then at one time one of the original owners 5 would be my father, Gerald Persinger. 6 Q. When did Mr. Frank relinquish or cease to be an 7 owner? 8 A. You know, I don't recall exactly when. I want 9 to say it was the fourth quarter of 2020. 10 Q. So I may speak at some point today about the 11 relevant period when it comes to this lawsuit, and for 12 your reference, what that means is the period from 13 August -- I think it's 24th, but I'm going to say 14 August 2017 to present. During that time period, the 15 relevant period, was Mr. Frank -- did he have some 16 ownership interest in RPM Dining, LLC? 17 A. Yes. 18 Q. And did you just buy him out? Or how did he 19 stop being an owner? 20 A. It was an agreement between Jonathan Joseph and 21 David. They swapped the business ownership interest in 22 companies they had mutual ownership in. 23 Q. Okay. And do you know the reason for the swap 24 in ownership? 25 A. No.</p>
<p style="text-align: right;">Page 6</p> <p>1 charge of, you know, kind of compliance stuff. 2 Q. Is Michael Persinger an attorney? 3 A. No. 4 Q. Is he a CPA? 5 A. No. 6 Q. And how long have you been an owner in RPM 7 Dining, LLC? 8 A. Since its formation. I don't recall what year 9 it actually was formed. The first -- the first 10 corporation was a different corporation when we took 11 ownership 28, 29 years ago. But I don't recall which 12 year we actually created the LLC. 13 Q. Do you remember what the former corporate 14 entity was named? 15 A. Gala Entertainment. 16 Q. And you said you first took ownership in Gala 17 Entertainment 28, 29 years ago? 18 A. Yeah. I believe it was -- if I recall right, 19 it was the third quarter of 1993 is when I bought stock 20 in the company. 21 Q. Since the time that you first obtained -- well, 22 let me be clear. Was Gala Entertainment the corporate 23 entity that did business as the Yellow Rose? 24 A. Yes. 25 Q. Since you had ownership interest in the Yellow</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Other than your ownership in the Yellow Rose, 2 do you own any other adult entertainment clubs? 3 A. I have 20 -- I think 22 or 22.5 percent 4 interest in the Red Rose. 5 Q. And where is the Red Rose located? 6 A. It's in Austin, Texas. 7 Q. How long have you had an ownership interest in 8 the Red Rose? 9 A. Yeah, that's a good question. I think about a 10 year and a half, maybe two years. I don't remember when 11 we incorporated. 12 Q. Other than the Yellow Rose and the Red Rose, do 13 you have ownership interest in any other adult 14 entertainment clubs? 15 A. No. 16 Q. Do you have any involvement in employees, 17 staff, consulting in any other adult entertainment clubs 18 besides Red Rose and Yellow Rose? 19 A. No. 20 Q. I'm going to show you what I'm going to mark as 21 Exhibit 1 to the depo. Give me just a second so I can 22 get my folder. I'll represent to you this is something 23 I pulled up off the Texas Secretary of State web site, 24 which has a lot of ownership information and companies. 25 And this I pulled up is a company called TFS Dining,</p>

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<p style="text-align: right;">Page 9</p> <p>1 LLC. Is that a corporate entity that you have any</p> <p>2 ownership interest in?</p> <p>3 A. Yes.</p> <p>4 Q. What is -- and I'll represent the page that I</p> <p>5 pulled up here -- and I know it doesn't highlight it</p> <p>6 very well when you pull it off the Secretary of State.</p> <p>7 This is an assumed name page, and it's showing that TFS</p> <p>8 Dining, LLC is -- has got the assumed name Yellow Rose,</p> <p>9 at least as of March of 2019. Do you -- is TFS Dining,</p> <p>10 LLC connected to the Yellow Rose?</p> <p>11 A. No. I don't know why that would be. It's got</p> <p>12 to be a clerical error.</p> <p>13 Q. Okay. So the only entity that does business as</p> <p>14 the Yellow Rose is the RPM Dining, LLC?</p> <p>15 A. Yes.</p> <p>16 Q. All right. Don't want to get my exhibits mixed</p> <p>17 up, so hold on. Let me show you one more on TFS Dining.</p> <p>18 Okay. I'll show you what I'm marking as Exhibit 2 to</p> <p>19 the deposition and -- listing the management -- or, I</p> <p>20 guess -- yeah, management that the Texas Secretary of</p> <p>21 State has for TFS Dining, LLC, and I see your name</p> <p>22 listed on there.</p> <p>23 Are those the owners, the correct owners,</p> <p>24 of TFS Dining or people that have ownership interest in</p> <p>25 TFS Dining, LLC in Exhibit 2?</p>	<p style="text-align: right;">Page 11</p> <p>1 the operation of the Yellow Rose?</p> <p>2 A. None.</p> <p>3 Q. Okay. Who does take on operation of the Yellow</p> <p>4 Rose?</p> <p>5 A. General management --</p> <p>6 Q. Who's the general --</p> <p>7 A. -- and the floor managers.</p> <p>8 Q. -- oh, I'm sorry.</p> <p>9 A. General manager and the floor managers.</p> <p>10 Q. Who's the general manager of the Yellow Rose?</p> <p>11 A. Eddie Gonzalez.</p> <p>12 Q. And does Eddie Gonzalez have to consult you on</p> <p>13 any matter related to the operation of the Yellow Rose?</p> <p>14 A. If he -- if he has a question, you know, and he</p> <p>15 wants to bounce it off me, he does, but he doesn't have</p> <p>16 to. He doesn't get micromanaged by me at all.</p> <p>17 Q. Okay. What sorts of things would he -- has he</p> <p>18 typically come to you with --</p> <p>19 A. You know --</p> <p>20 Q. -- as may relate to the operation of the Yellow</p> <p>21 Rose?</p> <p>22 A. I only talk to him maybe, God, twice a month if</p> <p>23 that.</p> <p>24 Q. Okay.</p> <p>25 A. You know, I don't talk to him very often. And,</p>
<p style="text-align: right;">Page 10</p> <p>1 A. I can't -- can you blow that up?</p> <p>2 Q. Sure can.</p> <p>3 A. I have damaged corneas. I don't see very well,</p> <p>4 so --</p> <p>5 Q. Well, and it's awfully small, as well, so --</p> <p>6 A. Okay. Jonathan, David, and Jon. Well, yeah.</p> <p>7 Q. Okay.</p> <p>8 A. Yeah.</p> <p>9 Q. And what's the purpose of TFS Dining, LLC?</p> <p>10 A. TFS Dining, LLC, as I recall, was associated</p> <p>11 with the formation of the Red Rose.</p> <p>12 Q. Oh, I see.</p> <p>13 A. Like I said, that's -- that I would recall,</p> <p>14 so --</p> <p>15 Q. All right. But it doesn't have anything to do</p> <p>16 with the Yellow Rose, right?</p> <p>17 A. Defiantly not. Absolutely not.</p> <p>18 Q. As an owner in the Yellow Rose, do you receive</p> <p>19 any financial benefits?</p> <p>20 A. Distributions on profits.</p> <p>21 Q. How often are distributions made?</p> <p>22 A. It's sporadic, you know? Sometimes a couple of</p> <p>23 times a year; sometimes three times a year. Possibly</p> <p>24 two or three times a year, in general.</p> <p>25 Q. What role do you take on, if any, as relates to</p>	<p style="text-align: right;">Page 12</p> <p>1 you know, most of the things would be like, you know,</p> <p>2 if -- if there's a, you know, an expenditure or a</p> <p>3 promotion or something like that that he has questions</p> <p>4 about.</p> <p>5 Or if there's a breach of peace that</p> <p>6 happened at the club and he wants to know how to handle</p> <p>7 it from a TABC standpoint. You know, that sort of</p> <p>8 stuff. You know, but in terms of the, like, the</p> <p>9 day-to-day minutia of running the club, nothing.</p> <p>10 Q. So he might come to you if there was, like, a</p> <p>11 legal issue happening at the club? Like a criminal</p> <p>12 matter or some --</p> <p>13 A. Yeah. If we have an altercation in the parking</p> <p>14 lot. Or if we have to, you know, escort a customer.</p> <p>15 Or, you know, a customer, you know, feels like, you</p> <p>16 know, somebody did something or treated him wrong. Or,</p> <p>17 you know, anything that might result in a TABC issue or</p> <p>18 lawsuit. Eddie would come to me, probably, first out of</p> <p>19 anybody.</p> <p>20 Q. You said he might also come to you about, like,</p> <p>21 a promotion at the club?</p> <p>22 A. Yeah. You know, if -- if they want to turn</p> <p>23 around and run like -- especially food promotion, stuff</p> <p>24 like that. Because I have a little bit of a background</p> <p>25 in that, and I can help them keep their food costs</p>

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<p style="text-align: right;">Page 13</p> <p>1 in-line. You know, he'll bounce it off me.</p> <p>2 Q. What's the --</p> <p>3 A. He doesn't -- he doesn't need my permission,</p> <p>4 but he'll bounce stuff off me.</p> <p>5 Q. As the owner, you don't require him to ask you</p> <p>6 permission to set a food promotion at the club, correct?</p> <p>7 A. No. No.</p> <p>8 Q. You said you have a background in the food</p> <p>9 industry, I take -- I guess?</p> <p>10 A. Well, yeah. I've helped the kitchen out there</p> <p>11 for a number of years, and, you know, I've learned a few</p> <p>12 tricks. So I have a really good friend of mine that</p> <p>13 worked for Darden Foods, big food company. You aware of</p> <p>14 them?</p> <p>15 And, you know, I've got access to him, so</p> <p>16 I've been able to bounce ideas off him, you know? So</p> <p>17 I've got more of a food background than anybody else. I</p> <p>18 don't think a food industry company would hire me, but,</p> <p>19 yeah, I --</p> <p>20 MS. MONTGOMERY: Oh, did I lose you?</p> <p>21 Mr. Persinger? Can you hear me? I may have lost him.</p> <p>22 THE COURT REPORTER: Did you want to go</p> <p>23 off the record until we can get him back?</p> <p>24 MS. MONTGOMERY: I was waiting to see if it</p> <p>25 just, like, popped back up again, but it doesn't seem to</p>	<p style="text-align: right;">Page 15</p> <p>1 general manager Eddie Gonzalez. How long has he been</p> <p>2 the general manager for the operations of the Yellow</p> <p>3 Rose?</p> <p>4 A. He was assigned that position at the Yellow</p> <p>5 probably a year and a half, maybe two years ago. I</p> <p>6 think it's about a year and half. He's worked for us</p> <p>7 for over three years.</p> <p>8 Q. Prior to Mr. Gonzalez being the general</p> <p>9 manager, who was the general manager?</p> <p>10 A. Jason Edwards.</p> <p>11 Q. Is Jason still -- work with the Yellow Rose?</p> <p>12 A. No.</p> <p>13 Q. Did -- was he terminated?</p> <p>14 A. No. We -- amicably parted ways with the Yellow</p> <p>15 Rose.</p> <p>16 Q. Let me ask it a different way. Did you</p> <p>17 amicably ask him to leave and he said yes?</p> <p>18 A. Yes, I guess you could say that.</p> <p>19 Q. Well, there's a difference between a general</p> <p>20 manager saying, "I'm leaving," and you as an owner</p> <p>21 saying, you know, "I'd like you to leave." And so what</p> <p>22 was the reason for Mr. Edwards departure?</p> <p>23 A. He -- he had an opportunity that was closer to</p> <p>24 home.</p> <p>25 Q. So is he not from Texas?</p>
<p style="text-align: right;">Page 14</p> <p>1 be.</p> <p>2 THE COURT REPORTER: Okay. So off the</p> <p>3 record?</p> <p>4 MS. MONTGOMERY: Sure.</p> <p>5 MR. KING: Yeah.</p> <p>6 (Brief recess.)</p> <p>7 Q. Sir, can you tell me -- you -- I understand</p> <p>8 there was a technical issue and your computer rebooted.</p> <p>9 You said you had looked something up that was a question</p> <p>10 I had asked you earlier. What --</p> <p>11 A. Yeah.</p> <p>12 Q. -- did you find out?</p> <p>13 A. You had asked me about TFS Dining --</p> <p>14 Q. Yes.</p> <p>15 A. -- being associated with the Yellow Rose.</p> <p>16 Q. Yes.</p> <p>17 A. And that was associated with a Yellow Rose that</p> <p>18 we intended to open up in Dallas, and it didn't happen,</p> <p>19 so --</p> <p>20 Q. So wrong Yellow Rose, right?</p> <p>21 A. Yeah, wrong Yellow Rose. Yeah. It was a</p> <p>22 potential Yellow Rose, and it just didn't happen because</p> <p>23 of COVID and some other stuff.</p> <p>24 Q. I asked earlier who was generally in charge of</p> <p>25 the operations at Yellow Rose, and you had mentioned the</p>	<p style="text-align: right;">Page 16</p> <p>1 A. No, but he's from way, way, way South Austin</p> <p>2 which is almost another country.</p> <p>3 Q. Okay. To your knowledge, is he managing</p> <p>4 another club?</p> <p>5 A. Yes.</p> <p>6 Q. What clubs does he manage now?</p> <p>7 A. He manages the Red Rose.</p> <p>8 Q. Did you ask him to move to the Red Rose?</p> <p>9 A. Asked him to be closer to home, and it just</p> <p>10 made more sense, so --</p> <p>11 Q. So you said that switchover between Mr. Edwards</p> <p>12 and Mr. Gonzalez happened about a year and half ago?</p> <p>13 A. Yeah, something like that. That's my</p> <p>14 recollection, yeah.</p> <p>15 Q. Let me say it this way: Is it pre-COVID or</p> <p>16 post COVID?</p> <p>17 A. Like kind of right at the COVID shutdown point.</p> <p>18 Q. So, like, March of 2020?</p> <p>19 A. Yeah. Something like that, yeah.</p> <p>20 Q. Okay. So prior to when Mr. Edwards was the</p> <p>21 general manager, was he generally the one that was in</p> <p>22 charge of operations at the Yellow Rose.</p> <p>23 A. Yes.</p> <p>24 Q. And was your relationship the same as it is</p> <p>25 with Eddie in that you would consult with him on -- or</p>

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<p style="text-align: right;">Page 17</p> <p>1 he would come to you and consult on certain matters like</p> <p>2 legal matters or maybe matters related to an area of</p> <p>3 your expertise, but anything else he was handling for</p> <p>4 the club?</p> <p>5 A. Yeah. Like -- like Eddie, I didn't talk to him</p> <p>6 a whole lot, you know? I mean, he might call a couple</p> <p>7 of times a month, if that.</p> <p>8 Q. Who's in charge of hiring the staff at the</p> <p>9 Yellow Rose?</p> <p>10 A. The employees are hired by the managers and</p> <p>11 floor managers.</p> <p>12 Q. Do they ever consult with you on hiring?</p> <p>13 A. No.</p> <p>14 Q. Did you hire the general manager, though?</p> <p>15 A. The ownership group talks about it. I have an</p> <p>16 input and a vote.</p> <p>17 Q. And would the ownership group also set the</p> <p>18 payroll or salary and benefits for the general manager</p> <p>19 of the club?</p> <p>20 A. Yes.</p> <p>21 Q. So if Eddie, for example, wanted a raise, he'd</p> <p>22 have to talk to you and the other owners to ask for a</p> <p>23 raise?</p> <p>24 A. Right. And we would vote on it.</p> <p>25 Q. And do you know -- as the owner, have you had</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. And do you lease it from anybody that is also</p> <p>2 an owner in the Yellow Rose?</p> <p>3 A. No.</p> <p>4 Q. It's a totally separate person or entity?</p> <p>5 A. Totally separate.</p> <p>6 Q. That lease that you have, is that something you</p> <p>7 as an owner were involved in the negotiation of?</p> <p>8 A. Me personally, no.</p> <p>9 Q. Is there a different owner that was involved?</p> <p>10 A. We handed that to Mike Persinger, and he</p> <p>11 negotiated that lease.</p> <p>12 Q. And if that lease -- if and when, I guess, that</p> <p>13 lease comes up for renewal, is Mr. Mike Persinger the</p> <p>14 person that would be in charge of kind of negotiating or</p> <p>15 dealing with that?</p> <p>16 A. Yes.</p> <p>17 Q. Let me show you what I'll mark as Exhibit 3.</p> <p>18 Okay. I think this already has everything redacted, but</p> <p>19 if it doesn't, we may need to redact some. I think the</p> <p>20 personal information's redacted, but let me just make</p> <p>21 sure.</p> <p>22 A. You have a question about this?</p> <p>23 Q. I do. I'm sorry. I have to write down each of</p> <p>24 my exhibits so I remember what I'm marking to give to</p> <p>25 the court reporter. It's -- it's been the hassle of</p>
<p style="text-align: right;">Page 18</p> <p>1 to fire anyone at the club?</p> <p>2 A. No.</p> <p>3 Q. How often would you say you actually go to the</p> <p>4 club?</p> <p>5 A. Not often. I have a 2017 vehicle. It just</p> <p>6 turned 20,000 miles on it, so I don't leave Round Rock</p> <p>7 very often. So, you know, any time I stop by the club</p> <p>8 is either to deal with a contractor who's doing a job,</p> <p>9 you know, or to just be social, say hi to some people.</p> <p>10 Q. Yeah. And my question is just how frequently</p> <p>11 would you say you do that. Like once a week? Once a</p> <p>12 month?</p> <p>13 A. Yeah, I would say -- I would say, you know, at</p> <p>14 least, you know, once a week or maybe even a little less</p> <p>15 than that.</p> <p>16 Q. Now --</p> <p>17 A. And sometimes -- sometimes I go weeks and don't</p> <p>18 go by the club, so --</p> <p>19 Q. As we sit here today, when was the last time</p> <p>20 you were at the club?</p> <p>21 A. Sunday. I went and watched a football game.</p> <p>22 Q. The building that the Yellow Rose is in, is</p> <p>23 that something that is rented, or is it owned by the</p> <p>24 ownership?</p> <p>25 A. No, we lease it.</p>	<p style="text-align: right;">Page 20</p> <p>1 Zoom depositions. What I've marked as Exhibit 3 is</p> <p>2 labeled as the Entertainer Application. Are you</p> <p>3 familiar with this application, sir?</p> <p>4 A. Yeah, I seen it.</p> <p>5 Q. Is it something that the ownership came up with</p> <p>6 for the entertainers at the club?</p> <p>7 A. The application was something that Mike, again,</p> <p>8 came up with. And that was him dealing with labor</p> <p>9 lawyers putting this together.</p> <p>10 Q. When did it first -- when was it first, I</p> <p>11 guess, utilized by the club for the entertainers.</p> <p>12 A. I don't I have no idea.</p> <p>13 Q. Well, was it more than five years ago?</p> <p>14 A. This particular one?</p> <p>15 Q. No. I'm just saying any -- I guess any</p> <p>16 entertainer app.</p> <p>17 A. Yeah. I believe -- well, I believe is not good</p> <p>18 because I don't know. But, you know, I do know that</p> <p>19 there's certain things that have to be done like</p> <p>20 E-Verify where we have to turn around and get certain</p> <p>21 information from, you know, independent contractors, you</p> <p>22 know? And I think that something like this has been</p> <p>23 used for a long time.</p> <p>24 Q. Let me ask about this part of it. There's this</p> <p>25 page that -- and I'll make it bigger so you can see it.</p>



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<p style="text-align: right;">Page 21</p> <p>1 It's entitled Regulatory Compliance.</p> <p>2 A. Uh-huh.</p> <p>3 Q. This is Page 3 of Exhibit 3.</p> <p>4 A. Yeah.</p> <p>5 Q. Is that something that has -- is that something</p> <p>6 that you're knowledgeable of?</p> <p>7 A. I've never read through it myself, personally.</p> <p>8 Mike, you know, like I said, works with the attorneys</p> <p>9 and works with the labor attorneys. So, personally,</p> <p>10 I've never read through this one.</p> <p>11 Q. Do you know what steps have to be taken in</p> <p>12 order for a new entertainer to start performing at</p> <p>13 Yellow Rose?</p> <p>14 A. Well, we -- I know that -- that we only approve</p> <p>15 independent contractors in person and that a manager has</p> <p>16 to agree to let that contractor work on his shift. And,</p> <p>17 you know, they've got to have a Social Security card,</p> <p>18 and they've got to have an ID that's current, and we've</p> <p>19 got to E-Verify them. And they have to, you know, fill</p> <p>20 out the -- the agreement, and they have to fill out a</p> <p>21 W-9.</p> <p>22 Q. Let me --</p> <p>23 A. Just like I do with all the contractors that do</p> <p>24 maintenance and construction work and air-conditioning</p> <p>25 work, so --</p>	<p style="text-align: right;">Page 23</p> <p>1 perform at the club anymore?</p> <p>2 A. I don't think so. I doubt it.</p> <p>3 Q. And one thing that you had said when you were</p> <p>4 going through some of the things for the entertainer --</p> <p>5 and maybe I heard you correctly; I'm not sure -- was</p> <p>6 that you only approve independent contractors; is that</p> <p>7 true?</p> <p>8 A. What are you talking about? For entertainers?</p> <p>9 Yeah.</p> <p>10 Q. Yes.</p> <p>11 A. Yeah. We have no entertainers that are</p> <p>12 employees. They're all independent contractors.</p> <p>13 Q. And when you say that, you mean that they have</p> <p>14 all signed an agreement? This license agreement that</p> <p>15 sets forth independent contractor terms?</p> <p>16 A. Yes. And, you know, we don't schedule them,</p> <p>17 and we don't turn around and tell them when to work</p> <p>18 or -- you know, they're an independent contractor in</p> <p>19 every sense of the word, so -- and --</p> <p>20 Q. Well, let's go through -- what is the sense of</p> <p>21 the word that you understand that makes them independent</p> <p>22 contractors?</p> <p>23 A. What do you mean?</p> <p>24 Q. Well, you're saying that they're independent</p> <p>25 contractors in every sense of the word. I asked if it</p>
<p style="text-align: right;">Page 22</p> <p>1 MS. MONTGOMERY: Objection, nonresponsive.</p> <p>2 Well, I'll say objection to the nonresponsive portion of</p> <p>3 that.</p> <p>4 Q. This Page 4 that I've pulled up of this -- I'm</p> <p>5 calling it the Entertainer Packet. Is this the</p> <p>6 agreement that you were referring to that -- I'm going</p> <p>7 to make it -- I'm going to show you the full-page, and I</p> <p>8 can scroll down through. It says License, Terms, and</p> <p>9 Conditions. And I can make it bigger if you want to see</p> <p>10 it bigger. Is this what each of the entertainers has to</p> <p>11 sign, to your knowledge?</p> <p>12 MR. KING: Objection, form.</p> <p>13 A. Yeah, to my knowledge. Like I said, I -- Mike</p> <p>14 is the one who set this up with the lawyers. You know,</p> <p>15 I trust, you know, the lawyers that he's hired, so I've</p> <p>16 never actually read through the contract myself. So,</p> <p>17 you know, I can't say that I've actually seen it or</p> <p>18 digested it. So I know they exist.</p> <p>19 Q. Have you ever -- have you ever gone through and</p> <p>20 approved a new entertainer to perform at the Yellow</p> <p>21 Rose?</p> <p>22 A. Never. In 29 years, I never have.</p> <p>23 Q. Have you ever told either the manager or</p> <p>24 some -- the general manager or another manager of the</p> <p>25 club that there's an entertainer that you do not want to</p>	<p style="text-align: right;">Page 24</p> <p>1 was because they signed this license agreement. You</p> <p>2 said that and every other thing. So I'd want to know</p> <p>3 what -- from your perspective, what that is.</p> <p>4 A. Well, I'm not a -- I'm not a lawyer, so --</p> <p>5 Q. I didn't --</p> <p>6 A. -- you know?</p> <p>7 Q. -- I'm not asking you --</p> <p>8 A. Maybe my perspective doesn't hold the same</p> <p>9 weight as, you know, a labor attorney.</p> <p>10 Q. Well, I didn't say it did, sir. I'm just</p> <p>11 trying to understand your perspective.</p> <p>12 A. Right. Well, my perspective is that they've</p> <p>13 signed a contract and an agreement with the company that</p> <p>14 they work as an independent contractor, and we've agreed</p> <p>15 to uphold everything within that contract.</p> <p>16 Q. Is there anything else that you believe makes</p> <p>17 them independent contractors?</p> <p>18 A. The contract says so, and our labor attorneys</p> <p>19 say so. Multiple labor attorneys say so.</p> <p>20 Q. Just be clear, I'm not going to ask you any</p> <p>21 specifics about attorney-client conversation. So I just</p> <p>22 wanted to understand your perspective on that question.</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. Does the club keep track of when</p> <p>25 entertainers -- like the dates and hours that</p>

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<p style="text-align: right;">Page 25</p> <p>1 entertainers performed?</p> <p>2 A. No.</p> <p>3 Q. Who's in charge of, like, the bookkeeping for</p> <p>4 the club?</p> <p>5 A. The back office is run by my wife, Beth, and</p> <p>6 all the paperwork flows through her. And she offices up</p> <p>7 in Round Rock, and, you know, I help her out.</p> <p>8 Q. Now, is it Beth Persinger?</p> <p>9 A. Yes.</p> <p>10 Q. The back office, what-all is the back office</p> <p>11 responsible for?</p> <p>12 A. Payroll, payables, filing, paying taxes, you</p> <p>13 know, that we have to pay the state. And we do an audit</p> <p>14 on employee files, make sure that as they come in, they</p> <p>15 have everything that's required by the federal and state</p> <p>16 government.</p> <p>17 Q. And that's where -- the back-office, that's</p> <p>18 where the employee files are kept?</p> <p>19 A. Yes.</p> <p>20 Q. Do they also keep the -- I guess, the</p> <p>21 applications and information on each of the entertainers</p> <p>22 that perform there?</p> <p>23 A. Yes. We -- yeah, the folders that have the --</p> <p>24 the independent contractor agreement and their</p> <p>25 application, copy of their Social Security, copy of</p>	<p style="text-align: right;">Page 27</p> <p>1 discretion.</p> <p>2 Q. How does the entertainer -- or who is she</p> <p>3 supposed to exchange those Rose dollars with for cash?</p> <p>4 A. Door girl.</p> <p>5 Q. Does the door girl keep track of the dance</p> <p>6 dollars being exchanged per entertainer name?</p> <p>7 A. Yes.</p> <p>8 Q. Other than tracking the credit card to Red Rose</p> <p>9 dollar exchange, are any other monies that are given to</p> <p>10 the entertainers, are any of those monies tracked by the</p> <p>11 club?</p> <p>12 A. No.</p> <p>13 Q. So tips are not tracked by the club, correct?</p> <p>14 A. No.</p> <p>15 Q. And any dance fees or VIP charges that an</p> <p>16 entertainer may receive, those aren't tracked by the</p> <p>17 club, correct?</p> <p>18 A. No. The only thing we track is the Rose</p> <p>19 dollars.</p> <p>20 Q. Now, there's other employees of the club other</p> <p>21 than the managers, correct?</p> <p>22 A. Bartenders, waitresses, barbacks.</p> <p>23 Q. And I understand that the general manager or</p> <p>24 another manager has the ability to hire the other staff</p> <p>25 at the club, correct?</p>
<p style="text-align: right;">Page 26</p> <p>1 their driver's license. That's all kept at the</p> <p>2 back-office, too. And --</p> <p>3 Q. So all the --</p> <p>4 A. -- we use the W-9 information that they provide</p> <p>5 us to issue 1099s.</p> <p>6 Q. Now, the 1099s that are issued to the</p> <p>7 entertainers, what are the monies that are included on</p> <p>8 the 1099s?</p> <p>9 A. When a customer turns around and pays them in a</p> <p>10 gift certificate we refer to as Rose dollars, they have</p> <p>11 to turn those in, and they get paid cash for that. And</p> <p>12 then we turn around and keep track of that, and if they</p> <p>13 make over \$600 in Rose dollars, then we have to report</p> <p>14 that to the IRS.</p> <p>15 Q. So to be clear, when a customer wants to pay</p> <p>16 using a credit card, does he do that transaction with</p> <p>17 some sort of staff member at the club and then the staff</p> <p>18 member at the club gives him the Rose dollars, if you</p> <p>19 will?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And then the Rose dollars are then given</p> <p>22 out either to pay for dances or tips that an entertainer</p> <p>23 performs, right?</p> <p>24 A. Right. Customer gets handed the Rose dollars,</p> <p>25 and what he does with them, you know, is to his</p>	<p style="text-align: right;">Page 28</p> <p>1 A. The employee staff? Yes.</p> <p>2 Q. Do you have any role in hiring the employee</p> <p>3 staff?</p> <p>4 A. No.</p> <p>5 Q. The employee staff -- well, hold on. The lower</p> <p>6 level -- I'm just going to call them the lower-level</p> <p>7 managers, the non-general manager. Do you set the other</p> <p>8 managers' pay?</p> <p>9 A. Yeah, you know, I've never really been involved</p> <p>10 in actually setting the pay with them. So me,</p> <p>11 personally, no.</p> <p>12 Q. Well, I guess, you had said before when your --</p> <p>13 for the general manager, the ownership votes on -- and</p> <p>14 would vote and approve on the pay for the general</p> <p>15 manager. Is that also true for the other managers at</p> <p>16 the club?</p> <p>17 A. General manager would approve any pay raises,</p> <p>18 you know, and, you know, have to substantiate them to</p> <p>19 ownership.</p> <p>20 Q. Is the same true for the other staff at the</p> <p>21 club other than managers? Does the general manager set</p> <p>22 what the bartenders and the door guy -- door girl are</p> <p>23 going to receive?</p> <p>24 A. Yeah. Everything is in charge -- I mean is in</p> <p>25 the general manager's hands. And, you know, I mean,</p>



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<p style="text-align: right;">Page 29</p> <p>1 there are standards that, you know, have been set in</p> <p>2 terms of what, you know, bartenders make and, you know,</p> <p>3 barbacks make that have been there for years, so -- but,</p> <p>4 you know, if there's a particular person that, you know,</p> <p>5 he wants to give more money to, you know, he certainly</p> <p>6 can if he feels necessary to do it.</p> <p>7 Q. The standards that have been there for years,</p> <p>8 is that something that the ownership set?</p> <p>9 A. I assume at one point in time, but, you know,</p> <p>10 like I said, I wasn't involved in it.</p> <p>11 Q. The bartenders and the waitresses, do they keep</p> <p>12 their tips?</p> <p>13 A. Yeah.</p> <p>14 Q. Do they get paid the -- I guess I don't know</p> <p>15 what it's called. I'd call it the tipped employee pay.</p> <p>16 But it's less than minimum wage because they receive</p> <p>17 tips?</p> <p>18 A. Yeah. With the employees, they get paid, you</p> <p>19 know, the tip minimum, you know, that the state sets.</p> <p>20 Q. Right.</p> <p>21 A. And then they have to declare their tips, and</p> <p>22 we monitor it every payroll. And if somebody does not</p> <p>23 make minimum wage, then the company kicks in and makes</p> <p>24 sure that it does.</p> <p>25 Q. Other than the bartenders and waitresses, is</p>	<p style="text-align: right;">Page 31</p> <p>1 a regular basis?</p> <p>2 A. No, not anymore.</p> <p>3 Q. When did he -- was there a time period he used</p> <p>4 to be?</p> <p>5 A. Well, when he -- when he lived here, he would</p> <p>6 go by and have drinks, but -- yeah.</p> <p>7 Q. When did he move away?</p> <p>8 A. I'm guessing about a year ago. Maybe longer.</p> <p>9 Q. Has the Yellow Rose been through any prior --</p> <p>10 other than the case we're here about today, have they</p> <p>11 been through any other prior FLSA lawsuits?</p> <p>12 A. Other than the one that -- that was initiated</p> <p>13 back in '93, not that I recall.</p> <p>14 Q. All right. I'm going to set the 1993 one aside</p> <p>15 for a minute.</p> <p>16 A. Yeah, so -- yeah.</p> <p>17 Q. That's been a minute. Well, one question about</p> <p>18 it: Were you the owner at the time of the one -- from</p> <p>19 the 1993, or was that something you're just aware of?</p> <p>20 A. No. It's something I'm aware of because it was</p> <p>21 an issue that had to be resolved for me to agree to</p> <p>22 invest in Gala Entertainment, is that lawsuit had to be</p> <p>23 resolved with the Department of Labor. And it was,</p> <p>24 so --</p> <p>25 Q. And it was --</p>
<p style="text-align: right;">Page 30</p> <p>1 there anyone else at the club that's treated like the</p> <p>2 tipped employee?</p> <p>3 A. Barback.</p> <p>4 Q. And you know what I mean when I say the tipped</p> <p>5 employee? The one whose tips are being monitored by the</p> <p>6 club and --</p> <p>7 A. Yeah. Anybody we pay less than the seven</p> <p>8 whatever an hour -- whatever the minimum wage is --</p> <p>9 yeah.</p> <p>10 Q. Okay.</p> <p>11 A. So bartender, waitress, barback.</p> <p>12 Q. Perfect. Now, earlier you had mentioned that</p> <p>13 Mr. Michael Persinger had -- he generally would create,</p> <p>14 like, the policies and procedures that were enforced at</p> <p>15 the club; is that true?</p> <p>16 A. Yes.</p> <p>17 Q. And did you as the owner have any role in</p> <p>18 setting the policies or procedures of the club that were</p> <p>19 in effect during the relevant period? That's the</p> <p>20 August 2017 to present.</p> <p>21 A. No.</p> <p>22 Q. Okay. You just delegated that task completely</p> <p>23 to Mr. Michael Persinger?</p> <p>24 A. Yes.</p> <p>25 Q. Does Michael Persinger -- is he at the club on</p>	<p style="text-align: right;">Page 32</p> <p>1 A. -- invest.</p> <p>2 Q. -- was it -- the Department of Labor was</p> <p>3 involved?</p> <p>4 A. Yeah. From what I recall, there was a -- there</p> <p>5 was a working relationship with the DOL to come up with</p> <p>6 something that they were happy with. And everything was</p> <p>7 dropped, and we were in good standing, and we could move</p> <p>8 forward.</p> <p>9 So, you know, it was a condition, like I</p> <p>10 said, upon me investing, so -- and it got resolved. But</p> <p>11 I mean, it was 100 years ago. I can't remember what I</p> <p>12 had for breakfast yesterday, so --</p> <p>13 Q. I get it. I just -- I appreciate your honesty.</p> <p>14 A. Yeah.</p> <p>15 Q. The Red Rose, how long has it been open?</p> <p>16 A. Two years.</p> <p>17 Q. Has the Red Rose -- has the Red Rose had any</p> <p>18 claims? FLSA claims?</p> <p>19 A. No.</p> <p>20 Q. The Yellow Rose -- back to them -- have they</p> <p>21 had any other lawsuits filed by employees that may not</p> <p>22 have been related to the FLSA?</p> <p>23 A. Not that I recall.</p> <p>24 Q. You said you had -- you assisted your wife in</p> <p>25 the back office management; is that true?</p>

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<p style="text-align: right;">Page 33</p> <p>1 A. Yeah. She -- she does the back office work, 2 and, you know, when she needs help, I help her out. 3 Q. Do you review any of the financials for the 4 club? 5 A. Just the -- when the P&amp;Ls are done, I'll take a 6 look at them. 7 Q. Is that a yearly thing that's done? 8 A. Monthly, when we're -- when we're lucky. But 9 yeah, so -- 10 Q. You strive for monthly but don't always 11 reach -- 12 A. Strive -- yeah, we strive for monthly. Doesn't 13 always happen. 14 Q. The club's web site, do you have any 15 involvement with the content that goes on the web site? 16 A. No. 17 Q. What about social media for the club? 18 A. No. 19 Q. Do you have any involvement in setting, like, 20 an advertising or promotion budget for the club? 21 A. No. 22 Q. Who would do those things? 23 A. Good question, you know? I mean, I'm not -- I 24 don't attend the managers' meetings, you know, and all 25 that's discussed at managers' meetings which happen, you</p>	<p style="text-align: right;">Page 35</p> <p>1 are sold at the club, is that something that they run by 2 you as -- 3 A. No. 4 Q. -- the ownership? 5 A. No. 6 Q. Does the ownership have regular meetings about 7 the club? 8 A. One meeting in October. Every year we kind of 9 get together. 10 Q. Do you have that set up for this year? 11 A. Yeah, actually, we do. 12 Q. When are you guys going to meet? 13 A. Mid-October. And we're going to meet -- yeah, 14 mid-October. 15 Q. Do the managers provide the -- hold on. Let me 16 back up a minute. Does any of the staff at the club 17 have any benefits other than their pay? 18 A. No. 19 Q. So no paid time off? 20 A. Well -- oh. If -- if -- you know, if we have a 21 long-term cook, you know, in the kitchen that has been 22 there a while, you know, and they take a vacation, we'll 23 go ahead and pay them for the week. 24 Q. There's no, like -- 25 A. But that's about it.</p>
<p style="text-align: right;">Page 34</p> <p>1 know, once a week. But I don't -- I don't attend them, 2 so -- 3 Q. Is there, like, a budget -- for lack of a 4 better word, is there, like, a food and alcohol budget 5 for the club? 6 A. No. 7 Q. That's just -- is that something that you'd 8 entrust to the management? 9 A. Well, you know, what we look at is inventories. 10 And, you know, if the inventory looks good at the end of 11 every month and, you know, we don't have slippage and 12 we're selling things for, you know, the prices that are 13 set in the POL and we get paid everything, then we're 14 generally, you know, okay with what they're doing. 15 Q. Would the -- 16 A. But in terms -- in terms of a budget set? No. 17 Q. Who sets the prices for, like, the food and 18 beverage? 19 A. Generally that's discussed in the managers' 20 meetings, you know? I mean, the market changes, so, you 21 know, as -- as they go in and out of other clubs and see 22 what other clubs are doing, you know, it fluctuates. 23 And I assume that's done in the managers' meetings. 24 Q. If they're going to change or, like, increase 25 across-the-board the price of the alcohol beverages that</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Yeah. There's no, like, set policy like -- 2 A. No set -- no set policy, no. 3 Q. So, like, if you've been there five years, you 4 don't get, like, two weeks paid vacation? 5 A. No, no. No formal policy like that. 6 Q. Is there any health insurance benefits? 7 A. No. 8 Q. Do any of the staff at the club wear a uniform? 9 A. Waitresses do. 10 Q. Anyone else? 11 A. No. 12 Q. Is there a dress code for the club? 13 A. For patrons? 14 Q. Yes. 15 A. Yeah. You know, generally, you know, we -- we 16 don't like them coming in tank tops or, you know -- you 17 know, shorts, you know, that are baggy and down to the 18 ground. But for the most part, we're pretty relaxed 19 about that. 20 Q. Who enforces that dress code, per say? 21 A. Management. Management. 22 Q. I'm guessing the club has some sort of bank 23 account for its deposits? 24 A. Yeah, I hope so. 25 Q. I hope so, as well. Who at the club has</p>

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<p style="text-align: right;">Page 37</p> <p>1 authorization to -- like signatory authorization on the 2 account? 3 A. That would be myself, my wife, and Jonathan 4 Joseph. 5 Q. Let me take like a five minute break and see 6 what else I have to ask you, okay? 7 A. All righty. 8 (Brief recess.) 9 Q. Is there anyone, any of the staff -- well, 10 let's say it this way. Is there any other person 11 working at the club that is considered an independent 12 contractor, other than the entertainers? 13 A. No, not that I'm aware of. 14 Q. And I'm not talking about, you know, somebody 15 you might hire to, you know, fix one thing at the club 16 and leave. I'm talking about people that go there 17 regularly. 18 A. Yeah. I don't -- I don't know the relationship 19 with the valets, or even if they have one. And I know 20 that it's gone back-and-forth, so I don't know the 21 status of that now. I'm just not that involved, so -- 22 Q. Got it. The -- 23 A. Other than that -- 24 Q. -- the entertainer application and packet that 25 we looked at earlier, it's Exhibit 3, is there a similar</p>	<p style="text-align: right;">Page 39</p> <p>1 club that desire to be employees, correct? 2 A. Well, I've never been asked the question. I 3 don't think any of them want to be considered employees. 4 Not any that I've ever talked to, so -- 5 Q. Yes. But that's not my question of what they 6 might want. My question is what is acceptable to you as 7 the owner. 8 A. Well, you know, I mean, the business model that 9 we have, you know, seems to make, you know, everybody 10 happy so I'm fine just keeping it the way it is. 11 Q. Well, my question is: Would you accept an 12 entertainer who wanted to be an employee? 13 A. I don't know. I'd have to consult my attorney 14 on that because that would be a very odd question, you 15 know? I mean, you're throwing a curveball from way left 16 field on that question. So I don't think that question 17 would ever come up, so I don't even know how respond to 18 it. But, you know, it'd be something that I would have 19 to consult our labor attorney on. 20 Q. The entertainers, do they pay like a -- I call 21 it a house fee. But do they pay fees to the club? 22 A. There is a house fee, yes. 23 Q. Is that something that the club tracks? Like 24 what entertainers pay in what amount? 25 A. Yes.</p>
<p style="text-align: right;">Page 38</p> <p>1 sort of contract that the employees of the club have to 2 sign? 3 A. No. 4 Q. When did Mike Persinger -- when did he first 5 start handling that paperwork and/or working with the 6 labor lawyers on the paperwork? 7 A. Well, he was the president of the company, you 8 know, for -- all through the '90s. And, you know, I 9 can't remember when he -- when he stepped down as that, 10 but might've been 2006 or -- might've been 2000. But 11 anyway, you know, so he's always worked with the 12 attorneys. 13 Anything to do with, like, an attorney 14 that we have to deal with, you know, Mike spearheads 15 that. Always has spearheaded it and just updates, you 16 know, the rest of the ownership via text or call -- 17 phone call or whatever, so -- but, you know, anything to 18 do with contracts, anything to do with that, he's -- 19 he's our Huckleberry. 20 Q. And you wouldn't accept any entertainers that 21 wanted to perform as employees, correct? 22 MR. KING: Objection, form. 23 A. I'm not sure what you mean by that question. 24 Q. My question is that you -- well, you as the 25 owner do not want any entertainers performing at the</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. And who set the amount of the fees? 2 A. The amount was set years ago by Mike Persinger. 3 Q. And have they increased or decreased over time? 4 A. I really don't know. 5 Q. Does Mr. Gonzalez have the authority to 6 increase or increase those fees? 7 A. He would have to consult the ownership on that 8 one probably. But, you know, it hasn't been asked. You 9 know, it was set by -- by Mike years ago, and as far as 10 I know, it hasn't changed in a long time, you know? 11 It -- you know, if they show up at the beginning of the 12 shift, they don't pay anything. 13 Q. Is the -- 14 A. Like -- 15 Q. -- sorry. 16 A. I said, you know, it starts with them. If they 17 show up at the beginning of a shift and are ready to 18 work, they don't pay anything. So there is no house 19 fee, you know? And if they choose -- if they want to 20 come later, then, you know, it escalates every -- I 21 think every 30 minutes, if I remember right. 22 Q. Yeah. I'll go ahead and I'll show you what I 23 have here. I'm going to mark it as Exhibit 4. This is 24 an example of some of the fees, at least that we're 25 aware of.</p>

[illegible]

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<p style="text-align: right;">Page 45</p> <p>I, JON PERSINGER, have read the foregoing transcript and hereby affix my signature that same is true and correct, except as noted above.</p> <p>_____</p> <p style="text-align: center;">JON PERSINGER</p> <p>THE STATE OF TEXAS        )( COUNTY OF _____)(</p> <p>Before me, _____, on this day personally appeared JON PERSINGER, known to me (or proved to me under oath or through _____) (description of identity card of other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.</p> <p>Given under my hand and seal of office this ____ day of _____, 2021.</p> <p>_____ NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS</p>	<p style="text-align: right;">Page 47</p> <p>LEIGH S. MONTGOMERY ELLZEY &amp; ASSOCIATES, PLLC 1105 Milford Street Houston, Texas 77066 WILLIAM X. KING WALLACE &amp; ALLEN, LLP 440 Louisiana Street, Suite 1500 Houston, Texas 77002</p> <p>I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially of otherwise interested in the outcome of the action.</p> <p>Further certification requirements pursuant to Rule 203 of TCRP will be certified to after they have occurred.</p> <p>Certified to by me this ____ day of _____, 2021.</p> <p>_____ AMANDA FULLER, Texas CSR No. 11418 Expiration Date: 11-30-21 Bryant &amp; Stingley, Inc., CRN No. 512 2010 E. Harrison Harlingen, Texas 78550 956-428-0755</p>
<p style="text-align: right;">Page 46</p> <p>UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION NATALIE HEATH, ET AL    )( Plaintiff                )(                               )( VS.                        )(                               )( CASE NO. 1:20-cv-00890-RP TFS DINING, LLC, AND RPM    )( DINING, LLC DBA YELLOW ROSE;)( JON PERSINGER, ET AL    )( Defendant                )(</p> <p style="text-align: center;">REPORTER'S CERTIFICATION ORAL DEPOSITION OF JON PERSINGER SEPTEMBER 23, 2021</p> <p>I, AMANDA FULLER, Certified Court Reporter in and for the State of Texas, hereby certify to the following:</p> <p>That the witness, JON PERSINGER, was duly sworn by me, and that the transcript of the oral deposition is a true and correct record of the testimony given by the witness;</p> <p>That the deposition transcript was submitted on _____ to William X. King, attorney for DEFENDANT for examination, signature and return to me by _____;</p> <p>That the amount of time used by each party at the deposition is as follows:</p> <p style="padding-left: 40px;">Leigh S. Montgomery - 38 minutes</p> <p>That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes counsel for all parties of record:</p>	<p style="text-align: right;">Page 48</p> <p>UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION NATALIE HEATH, ET AL    )( Plaintiff                )(                               )( VS.                        )(                               )( CASE NO. 1:20-cv-00890-RP TFS DINING, LLC, AND RPM    )( DINING, LLC DBA YELLOW ROSE;)( JON PERSINGER, ET AL    )( Defendant                )(</p> <p style="text-align: center;">FURTHER CERTIFICATION UNDER RULE 203 TCRP TO THE ORAL DEPOSITION OF JON PERSINGER SEPTEMBER 23, 2021</p> <p>I, Amanda Fuller, certify that the original Changes and Signature Page of JON PERSINGER:</p> <p>_____ was received by the Deposition Officer on _____;</p> <p>_____ was not received by the Deposition Officer;</p> <p>That, if returned, the attached Changes and Signature Page contain any changes and the reasons therefor;</p> <p>If returned, the original Changes and Signature Page was delivered to Leigh S. Montgomery, Custodial Attorney;</p> <p>That \$ _____ is the deposition officer's charges to PLAINTIFF for preparing the original deposition transcript and any copies of exhibits;</p>

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That the deposition was delivered in accordance with  
Rule 203.3, and that a copy of this certificate was  
served on all parties shown herein on  
\_\_\_\_\_ and filed with the Clerk.

Certified to by me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
AMANDA FULLER, Texas CSR No. 11418

Expiration Date: 11-30-21

Bryant & Stingley, Inc., CRN No. 512

2010 E. Harrison

Harlingen, Texas 78550

956-428-0755